

January 27, 2012

Edward A. Colley
29364 Begonias Lane
Canyon Country, CA 91387

Re: Your Request for Advice
Our File No. A-12-001

Dear Mr. Colley:

This letter responds to your request for advice regarding the campaign reporting provisions of the Political Reform Act (the “Act”).¹

QUESTION

May you transfer campaign funds from one of your controlled committees to another of your controlled committees when both committees are for local office? If so, are you required to attribute the contributions to contributors when reporting them?

CONCLUSION

Nothing in the Act prohibits local candidate controlled committees controlled by the same candidate from transferring funds from one controlled committee to another controlled committee so long as those funds have not become surplus. Additionally, the Act does not require attribution of such funds, though your local jurisdiction may establish rules requiring attribution.

FACTS

You are currently an elected member of the Castaic Lake Water Agency Board who recently won reelection in the November 2010 election. You would like to know if you may transfer funds from “Ed Colley for Water Board 2010” to “Ed Colley for City Council 2012.” The “Ed Colley for Water Board 2010” committee has a balance of approximately \$4,400. If

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

you are not prohibited from transferring the funds you would like to know if you must attribute the transferred funds to specific persons or committees. You would also like to know what date you should use to begin the attribution reporting. How would this transfer be reported on the appropriate form 460 for each committee? The “Ed Colley for City Council 2012” committee is subject to contribution limits of \$1,000 by a city ordinance. You control both committees mentioned and the funds you would like to transfer have not become surplus funds.

ANALYSIS

The Act permits a candidate to transfer funds between his or her “controlled committees.” A “controlled committee” is defined in Section 82016(a) as follows: “‘Controlled committee’ means a committee that is controlled directly or indirectly by a candidate or state measure proponent or that acts jointly with a candidate, controlled committee, or state measure proponent in connection with the making of expenditures. A candidate or state measure proponent controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee.”

However, candidates who are defeated in an election or leave office must transfer campaign funds to an account for a future election prior to the end of the semi-annual period following the election in which the candidate was defeated, or prior to leaving office, whichever is later. If the funds are not transferred by this time, they are considered “surplus funds” and may not be used for a future election. (Section 89519). Your funds have not become surplus because you were successful in the last election.

State law requires attribution of contributions transferred between a candidate’s controlled committees when the candidate is one running for *elective state office*. (§ 85306 and Reg. 18536.) State law, however, does not require attribution when *local* candidates transfer funds between their own controlled committees, though your local jurisdiction may have its own rules requiring attribution. You noted that in your jurisdiction there is a contribution limit of \$1,000 for your city council committee; therefore we advise that you should consult with your city attorney or private counsel to determine whether your jurisdiction requires attribution of transferred contributions and under what method such attribution should be reported. The Commission does not advise regarding the application of local ordinances.

If attribution is not required in your local jurisdiction reporting of the transfer is as follows: the committee receiving the transferred funds reports the funds on Schedule I of its Form 460 and the committee making the transfer reports the transaction on Schedule E of its form 460.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Zackery P. Morazzini
General Counsel

By: Sukhi K. Brar
Counsel, Legal Division

SKB:jgl